

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Leonard L. Gumport (Bar No. 086935) lgumport@gumportlaw.com GUMPORT MASTAN 550 South Hope Street, Suite 1765 Los Angeles, CA 90071 (213) 452-4900 <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Peter J. Mastan, Ch. 7 Trustee	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

In re: KEITH JAMES REILLY and JAIMIE LEE REILLY, Debtor(s).	CASE NO.: 2:14-bk-26874-RK CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY
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Sale Date: 01/06/2015	Time: 2:30 pm
Location: Courtroom 1675, 255 E. Temple Street, Los Angeles, CA 90012	

Type of Sale: ☒ Public ☐ Private

Last date to file objections: 12/23/2014

Description of property to be sold:

Real property commonly known as 3043 Greenfield Ave., Los Angeles, CA 90012 (the "Real Property").

Terms and conditions of sale:

"AS IS" and "WHERE IS" basis, with all faults and without any representation or warranty whatsoever, except that the Real Property is being sold free and clear of all monetary claims, liens, and interests.

Proposed sale price: \$ 900,000.00

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

Overbid procedure (if any):

SEE THE ATTACHED NOTICE.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

January 6, 2015
2:30 p.m.
United States Bankruptcy Court
Courtroom 1675
255 E. Temple Street
Los Angeles, CA 90012

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Leonard L. Gumport, Esq.
Gumport | Mastan
550 S. Hope Street, Suite 1765
Los Angeles, CA 90071
213-452-4900
lgumport@gumportlaw.com

Date: 12/12/2014

1 LEONARD L. GUMPORT (Bar No. 086935)
lgumport@gumportlaw.com
2 GUMPORT | MASTAN
550 South Hope Street, Suite 1765
3 Los Angeles, California 90071-2627
Telephone: (213) 452-4900
4

Attorneys for Peter J. Mastan,
5 Chapter 7 Trustee of the Bankruptcy Estate of
Keith James Reilly and Jaimie Lee Reilly
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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**

11 In re

12 KEITH JAMES REILLY and
13 JAIMIE LEE REILLY,

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15 Debtors.
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Bk. No.: 2:14-bk-26874-RK

CHAPTER 7

NOTICE OF FILING OF MOTION:

(1) TO APPROVE THE TRUSTEE'S
SALE OF THE REAL PROPERTY
COMMONLY KNOWN AS 3043
GREENFIELD AVE., LOS ANGELES,
CA 90034, FREE AND CLEAR OF
CLAIMS, LIENS, AND INTERESTS,
SUBJECT TO OVERBID;

(2) REQUIRING THE DEBTORS TO
VACATE, AND AUTHORIZING THE
TRUSTEE TO PAY THE HOMESTEAD
PROCEEDS TO THE DEBTORS; AND

(3) AUTHORIZING THE UNITED
STATES MARSHALS TO ENFORCE
ANY TURNOVER ORDER

DATE: January 6, 2015
TIME: 2:30 p.m.
PLACE: Courtroom 1675
255 E. Temple Street
Los Angeles, CA 90012
[Judge Robert N. Kwan]

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NOTICE OF FILING OF MOTION

TO DEBTORS KEITH JAMES REILLY AND JAIMIE LEE REILLY; TRIWEST DEVELOPMENT, LLC; THE OFFICE OF THE UNITED STATES TRUSTEE; ALL SCHEDULED CREDITORS OF THE ESTATE AND THOSE WHO HAVE FILED PROOFS OF CLAIM; ALL LIEN HOLDERS OF RECORD; AND THEIR RESPECTIVE COUNSEL OF RECORD, IF ANY:

NOTICE IS HEREBY GIVEN that, on the 2:30 p.m. calendar, on January 6, 2015, in Courtroom 1675 of the United States Bankruptcy Court, located at 255 East Temple Street, Los Angeles, California 90012, movant Peter J. Mastan, Chapter 7 Trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Keith James Reilly and Jaimie Lee Reilly (the "Debtors"), will make and does hereby make this motion (the "Motion") for an order that:

(1) Authorizes the Trustee to sell the real property commonly known as 3043 Greenfield Ave., Los Angeles, California 90034 (the "Real Property") to (a) Triwest Development, LLC, or its assignee¹ (the "Buyer") for \$900,000, on the terms specified in the agreement (the "Agreement") attached as **Exhibit 1** and the escrow instructions (the "Escrow Instructions") attached as **Exhibit 2**, or (b) an approved overbidder making a higher and better offer (and in all cases (i.e., both (a) and (b)) on an "AS IS" and "WHERE IS" basis, with all faults and without any representation or warranty whatsoever, except that the Real Property is being sold free and clear of all monetary claims, liens, and interests);

(2) Authorizes the Trustee to pay through escrow all usual and customary costs of sale, including without limitation (a) brokers' commissions of 6%, (b) escrow fees, (c) title insurance fees, (d) recording fees, (e) messenger fees, and (f) liens of record, in each case to the extent not disputed by the Trustee;

¹Triwest Development, LLC has indicated it would like to assign title to TriWest Homes II, LP.

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1 (3) Determines that, to the extent that any portion of a monetary claim, lien, or
2 interest is disputed by the Trustee and not paid through escrow, such monetary claim(s),
3 lien(s), and/or interest(s) in and to the Real Property shall attach to the sale proceeds with
4 the same validity, force and effect as such monetary claims, liens, and interests had with
5 respect to the Real Property;

6 (4) Determines that the Agreement was made in good faith in an arm's-length
7 transaction and that the buyer of the Real Property (whether the Buyer or a successful
8 overbidder) is acting in good faith within the meaning of 11 U.S.C. § 363(m);

9 (5) Determines that adequate notice of the hearing on the Motion was given;

10 (6) Authorizes the Trustee to perform the terms of the Agreement and the
11 Escrow Instructions and to sign all such documents that are reasonably necessary to
12 perform the Trustee's obligations under the Agreement;

13 (7) Reserves Bankruptcy Court jurisdiction to enforce the Agreement and
14 Escrow Instructions;

15 (8) Approves the following overbid procedure:

16 (a) any initial overbid for the Real Property must be in an amount not
17 less than \$907,500 (i.e., \$7,500 higher than the proposed purchase price);

18 (b) in the event that the Trustee receives multiple overbids, any
19 subsequent overbids must be made in Court at the time of the hearing on the Motion and
20 must be made in minimum increments of \$2,500;

21 (c) any overbid must be actually delivered to the Trustee, in care of his
22 counsel Leonard L. Gumport, Esq. at the address set forth on the caption of this Notice,
23 not later than 3 business days prior to the hearing on the Motion and must be
24 accompanied by (i) a certified or cashier's check in the amount of \$27,000 (the "Overbid
25 Deposit"), which amount is equal to the amount deposited by the Buyer, and (ii) financial
26 documents acceptable to the Trustee reflecting the bidder's present ability to immediately
27 close the sale for the full amount bid at the hearing within 14 days of the Court entering
28 an order approving the sale to the overbidder;

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1 (d) any sale at overbid will be "AS IS", "WHERE IS", with all faults
2 and without any representation or warranty whatsoever, whether express or implied,
3 including without limitation, without warranty as to habitability, merchantability, or
4 fitness for a particular purpose, except that the sale will be free and clear of monetary
5 liens, claims and interests;

6 (e) the Trustee may exercise his discretion to reject a particular overbid
7 that is not both higher and better (based upon all of the circumstances) than the Buyer's
8 offer or the offer of other overbidders or where, in the Trustee's subjective opinion, the
9 bidder has not provided sufficient financial documentation to demonstrate that bidder's
10 present ability to close the purchase of the Real Property from the Estate;

11 (f) any person making an overbid for the Real Property shall be deemed
12 to have made, on their own account, each of the representations/acknowledgments made
13 by the Buyer to the Trustee in the Agreement and shall be accepting the Real Property on
14 an "AS IS" and "WHERE IS" basis, except that the Trustee will convey the Real Property
15 free and clear of all monetary claims, liens, and interests;

16 (9) Authorizes the Trustee to close the proposed sale of the Real Property to the
17 Buyer (or the successful overbidder) unless an appeal of the order authorizing that sale is
18 timely filed and a stay pending appeal is entered;

19 (10) In the event that the Buyer is not the Court-approved buyer of the Real
20 Property because the Buyer was overbid, authorizes the Trustee to direct escrow to return
21 to the Buyer the \$27,000 currently on deposit with the escrow;

22 (11) Waives the 14-day stay of orders for the disposition of Estate property set
23 forth in Fed.R.Bankr.P. 6004(h);

24 (12) Directs the Debtors to vacate and turnover possession of the Real Property
25 within 24 hours of the entry of the order on the Motion and cause all exempt personal
26 property to be removed from the Real Property (not including fixtures);

27 (13) Authorizes the Trustee to disburse to the Debtors the Debtors' claimed
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1 homestead exemption as exempt homestead proceeds, without any further recourse by the
2 Trustee and without the Trustee requiring the Debtors to reinvest the funds, so long as the
3 Debtors vacate the Real Property on or before January 5, 2015, without damaging the
4 Real Property, and leaving the Real Property in clean condition;

5 (14) Pursuant to Fed.R.Bankr.P. 7070 and 9014(c), provides that the order on the
6 Motion shall constitute a writ of possession for the Real Property, directing the United
7 States Marshals Service for the Central District of California to evict the Debtors from the
8 Real Property, assist the Trustee and/or his agent in removing any and all exempt personal
9 property located at the Real Property in order to effectuate the disposition of the Property,
10 and employ whatever reasonable force is necessary to break open and enter the Real
11 Property and perform the above-described actions, regardless of whether said premises
12 are locked or unlocked or occupied or unoccupied.

13 **NOTICE IS FURTHER GIVEN** that the Motion is made pursuant to 11 U.S.C.
14 §§ 363(b) and 363(m), Federal Rules of Bankruptcy Procedure 2002, 4002, 6004, 7070
15 and 9014, and Local Bankruptcy Rules 6004-1 and 9013-1 on the grounds that the
16 proposed sale is in the best interests of the Estate.

17 **NOTICE IS FURTHER GIVEN** that the Motion is based on (a) this Notice of
18 Filing of Motion; (b) the concurrently filed Notice of Motion and Motion, Memorandum
19 of Points and Authorities, Declarations of Peter J. Mastan, Leonard L. Gumport, and Jane
20 Schore, and Exhibits; (c) the pleadings on file with the Court of which the Court is
21 requested to take judicial notice; and (d) such further evidence that may be properly
22 submitted prior to or at any hearing on the Motion. At your own expense, you may obtain
23 a complete copy of the Motion from the Court's file or by contacting Mr. Victor Rivera of
24 Discovery Document Reproduction Services at Tel. No. (213) 312-0033.

25 **NOTICE IS FURTHER GIVEN** that, pursuant to **Local Bankruptcy Rule**
26 **9013-1(f)**, any opposition to the Motion must be in writing; must be filed with the
27 Court and served upon the Buyer, the Trustee, and the Office of the United States
28 Trustee at the addresses set forth below not later than 14 days before the date set for

1 the hearing on the Motion; and must include a complete written statement of all
2 reasons in opposition thereto or in support or joinder thereof, declarations and
3 copies of all photographs and documentary evidence on which the responding party
4 intends to rely, and any responding memorandum of points and authorities:
5

6 **For Filing With the Court**

7 Clerk's Office
8 United States Bankruptcy Court
9 255 E. Temple Street
10 Los Angeles, California 90012

For Service on Hon. Robert N. Kwan,
United States Bankruptcy Judge

Hon. Robert N. Kwan
United States Bankruptcy Court
Central District of California
255 East Temple Street, Suite 1682
Los Angeles, CA 90012

10 **For Service on the Trustee**

11 Peter J. Mastan, Trustee
12 c/o Leonard L. Gumport, Esq.
13 Gumport | Mastan
14 550 South Hope Street, Suite 1765
15 Los Angeles, California 90071-2627

For Service on the Buyer

Triwest Development, LLC
c/o Mike Khattab and Todd Baker
Coldwell Banker
11661 San Vicente Blvd.
Los Angeles, California 90049

14 **For Service on the Office of**
U.S. Trustee

15 Office of the U.S. Trustee
16 915 Wilshire Blvd., Suite 1850
17 Los Angeles, California 90017

18 NOTICE IS FURTHER GIVEN that, pursuant to Local Bankruptcy Rule
19 9013-1(h), failure to timely file and serve an objection may be deemed by the Court
20 to be consent to granting the Motion.

21 DATED: December 12, 2014

Respectfully submitted,

GUMPORT | MASTAN

24 By: 

25 Leonard L. Gumport
26 Attorneys for Peter J. Mastan, Chapter 7
27 Trustee of the Bankruptcy Estate of
28 Keith James Reilly and Jaimie Lee Reilly

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: Gumport | Mastan, 550 S. Hope Street, Suite 1765, Los Angeles, CA 90071

A true and correct copy of the foregoing document described as: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d), and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(S) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On **December 12, 2014** that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addresses indicated below:

Leon D Bayer bkcyattys@aol.com, bwlecf@gmail.com
Stephanie Hilliard shilliard@santanderconsumerusa.com
Peter J Mastan (TR) pmastan@gumportlaw.com, pmastan@ecf.epiqsystems.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

___ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
On **December 12, 2014** I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

UNITED STATES BANKRUPTCY COURT
Honorable Robert N. Kwan
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal Bldg. and Courthouse
255 E. Temple Street, Suite 1682
Los Angeles, CA 90012

SERVED BY FEDERAL EXPRESS

X Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows: Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

___ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

December 12, 2014
Date

KATHLEEN MAROSY
Name

Kathleen Marosy
Signature